

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

NORTHWEST SHEET METAL WORKERS
ORGANIZATIONAL TRUST; NORTHWEST
SHEET METAL WORKERS WELFARE
FUND; NORTHWEST SHEET METAL
WORKERS PENSION FUND; NORTHWEST
SHEET METAL WORKERS SUPPLEMENTAL
PENSION TRUST; WESTERN WASHINGTON
SHEET METAL TRAINING TRUST;
NORTHWEST SHEET METAL LABOR
MANAGEMENT COOPERATION TRUST; and
SHEET METAL WORKERS LOCAL 66,

Plaintiffs,

v.

GLACKEN FABRICATION, LLC,

Defendant.

No.

**COMPLAINT FOR DAMAGES
AND FOR INJUNCTIVE
RELIEF**

JURISDICTION AND VENUE

1. This is an action brought pursuant to Section 301 of the National Labor Relations Act, as amended (hereafter "the Act"), 29 U.S.C. § 185, and Section 502 of the Employee Retirement Income Security Act of 1974 (hereafter "ERISA"), 29 U.S.C. § 1132. Jurisdiction and venue are conferred upon this Court by 29 U.S.C. § 185(a), 1132(a), (e) and (f).

PARTIES

2. Plaintiff NORTHWEST SHEET METAL WORKERS ORGANIZATIONAL TRUST (hereafter “Northwest Organizational Trust”) is a labor-management trust fund created pursuant to the provisions of Section 302(c) of the Act, 29 U.S.C. § 186(c), and authorized to sue in its own name by Section 502(d)(1) of ERISA, 29 U.S.C. § 1132(d)(1). Plaintiff Northwest Organizational Trust is administered in the State of Washington from its place of business at 118 North Lewis Street, Suite 110, Monroe, WA 98272

3. Plaintiff NORTHWEST SHEET METAL WORKERS WELFARE FUND (hereafter “Welfare Trust”) is a labor-management health and welfare trust fund created pursuant to the provisions of Section 302(c) of the Act, 29 U.S.C. § 186(c), and authorized to sue in its own name by Section 502(d)(1) of ERISA, 29 U.S.C. § 1132(d)(1). Plaintiff Welfare Fund is administered in the State of Washington.

4. Plaintiff NORTHWEST SHEET METAL WORKERS PENSION FUND (hereafter “Pension Trust”) is a labor-management pension trust fund created pursuant to the provisions of Section 302(c) of the Act, 29 U.S.C. § 186(c), and authorized to sue in its own name by Section 502(d)(1) of ERISA, 29 U.S.C. § 1132(d)(1). Plaintiff Pension Fund is administered in the State of Washington.

5. Plaintiff NORTHWEST SHEET METAL WORKERS SUPPLEMENTAL PENSION TRUST (hereafter “Supplemental Pension Trust”) is a labor-management pension trust fund created pursuant to the provisions of Section 302(c) of the Act, 29 U.S.C. § 186(c), and authorized to sue in its own name by Section 502(d)(1) of ERISA, 29 U.S.C. § 1132(d)(1). Plaintiff Pension Fund is administered in the State of Washington.

Plaintiff WESTERN WASHINGTON SHEET METAL TRAINING TRUST (hereafter “Training Trust”) is a labor management training fund created pursuant to the provisions of Section 302(c) of the Act, 29 U.S.C. § 186(c), and authorized to sue in its own

1 name by Section 502(d)(1) of ERISA, 29 U.S.C. § 1132(d)(1). Plaintiff Training Trust is
2 administered in the State of Washington.

3 7. Plaintiff NORTHWEST SHEET METAL LABOR MANAGEMENT
4 COOPERATION TRUST (hereafter "Cooperation Trust") is a labor-management trust fund
5 created pursuant to the provisions of Section 302(c) of the Act, 29 U.S.C. § 186(c), and
6 authorized to sue in its own name by Section 502(d)(1) of ERISA, 29 U.S.C. § 1132(d)(1).
7 Plaintiff Cooperation Trust is administered in the State of Washington.

8 8. Plaintiff SHEET METAL WORKERS LOCAL 66 ("Local 66") is a labor
9 organization. It represents for purposes of collective bargaining persons who are employed in
10 the construction and marine repair industries. Those industries affect commerce within the
11 meaning of the Act.

12 9. Defendant GLACKEN FABRICATION, LLC is a sheet metal contractor and
13 is a party to a collective bargaining agreement with Sheet Metal Workers Local 66. That
14 industry affects commerce within the meaning of the Act. Glacken has employed or does
15 employ persons represented by Local 66. Glacken's principal place of business is 15143
16 140th Ln. SE, Yelm, WA 98597-9124.

17 **CLAIM FOR RELIEF**

18 10. Plaintiffs incorporate by reference as though set forth fully herein paragraphs 1
19 through 9 above.

20 11. The collective bargaining agreement between Defendant and Local 66 was in
21 effect at all times material hereto. By that agreement Defendant Glacken became obligated to
22 make monthly contributions to plaintiffs Welfare, Pension, and Supplemental Pension,
23 Organizational, Cooperation and Training Trusts on behalf of employees represented by
24 Local 66.

25 12. Defendant has also agreed to and has received money from its Local 66
26 employees, as part of the employees' after-tax wages, which Defendant is and was obligated

on a monthly basis to deposit into each employee's account, or submit to Local 66 as part of each employee's dues obligation. Defendant holds such money in trust.

13. Payments due to the Welfare, Pension, and Supplemental Pension, Organizational, Cooperation and Training Trusts, and the amounts of employees' after-tax wages held in trust by Defendant, are calculated pursuant to a contribution reporting form required to be prepared monthly by Defendant.

14. The completed contribution reporting form and accompanying payment are due at the Welfare office and address within fifteen (15) days after the end of each calendar month.

15. In accordance with the Plaintiffs' regular procedures, Defendant was audited in 2015. That audit demonstrated that the Defendant had failed to make all payments due to plaintiffs despite its obligation under the collective bargaining agreements to do so and despite demand by plaintiffs. As such, Defendant owes outstanding contributions, in violation of its obligations under the trust agreements.

16. Unless ordered by this Court, Defendant will continue to refuse to pay to the Plaintiffs the contributions due them. As a result, Plaintiffs will be irreparably damaged.

17. In addition to the unpaid contributions, Plaintiffs are entitled to the following pursuant to Section 502(g) of ERISA, 29 U.S.C. § 1132(g), and Section 301 of the Act, 29 U.S.C. § 185, as amended:

- (a) Interest on the untimely or delinquent contributions;
- (b) An amount equal to the greater of:
 - (i) interest on the untimely contributions (hereinafter "interest"),
 - or
 - (ii) liquidated damages in an amount equal to 20% of the amount awarded as unpaid or delinquent contributions, as provided for in the Trust Agreement (hereinafter "liquidated damages"); and

1 (c) Reasonable attorneys' fees and the costs of this action.

2 18. A copy of this complaint will be served upon the Secretary of Labor and the
3 Secretary of the Treasury by certified mail as required by ERISA, 29 U.S.C. § 1132(h).

4 WHEREFORE, plaintiffs demand judgment against the Defendant:

5 1. Obligating Defendant to pay to plaintiffs the full amount contributions owing
6 under the 2015 audit, with the proper amount of interest and with a penalty or liquidated
7 damages as established by Section 502(g) of ERISA, 29 U.S.C. § 1132(g), the Trust
8 Agreement, and the collective bargaining agreement;

9 2. Restraining and enjoining Defendant, its officers, agents, servants, attorneys,
10 and all persons acting on its behalf or in conjunction with it from refusing to pay to plaintiffs
11 all funds, including interest, penalties, and liquidated damages, due under the 2015 audit;

12 3. Requiring Defendant to pay to plaintiffs reasonable attorneys' fees and the
13 costs of this action as set forth in Section 502(g) of ERISA 29 U.S.C. § 1132(g); and

14 4. Granting plaintiffs such further and other relief as may be just and proper.

15 DATED this 5th day of February, 2018. MCKANNA BISHOP JOFFE, LLP

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